

APPEAL NO. 031995
FILED SEPTEMBER 11, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 25, 2003. The hearing officer determined that the appellant's (claimant) compensable injury of _____, extends to and includes left shoulder impingement syndrome, but does not extend to include left shoulder tendinosis or arthritis. The hearing officer also determined that claimant is not entitled to seventh or eighth quarter supplemental income benefits (SIBs). The claimant has appealed the finding that her arthritis and tendinosis are ordinary diseases of life; that she had an ability to work; and that she was not entitled to the seventh and eighth quarter SIBs. She urges reversal on factual sufficiency grounds. The respondent (carrier) has responded and urges affirmance. The decision that the compensable injury extends to and includes impingement syndrome is not appealed and is final by operation of law. See Section 410.169.

DECISION

Affirmed.

The issue of extent of injury presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The trier of fact may believe all, part, or none of the testimony of any witness, including the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). In view of the evidence presented, we cannot conclude that the hearing officer's extent-of-injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § Section 130.102 (Rule 130.102). The SIBs criterion in issue is whether the claimant made a good faith effort to obtain employment commensurate with her ability to work during the qualifying period for the seventh and eighth quarters. The claimant asserted that she had no ability to work due to her compensable injury. The hearing officer found that the claimant did not meet the requirements of Rule 130.102(d)(4), i.e., he found that the claimant had some ability to work, found that the claimant failed to submit a medical narrative showing how her compensable injury caused an inability to work during the qualifying periods for the seventh and eighth quarters, and he determined that the claimant did not make a good faith effort to obtain employment commensurate with her ability to work. Whether a claimant satisfied the good faith requirement for SIBs entitlement is a factual question for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal

No. 94150, decided March 22, 1994. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain, *supra*.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Edward Vilano
Appeals Judge